

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge			Gottschall	Sitting Judge if Other than Assigned Judge	Martin C.	Ashman	
CASE NUMBER		03 C	7249	DATE	7/6/2	004	
CASE TITLE			Dawn L. Behrens vs. Silliker Laboratorics, Inc.				
[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]							
DOCKET ENTRY:							
(1)	□ File	Filed motion of [use listing in "Motion" box above.]					
(2)	□ Brie	nef in support of motion due					
(3)	□ Ans	Answer brief to motion due Reply to answer brief due					
(4)	□ Ruli	Ruling/Hearing on set for at					
(5)	☐ State	Status hearing[held/continued to] [set for/re-set for] on set for at					
(6)	□ Pret	Pretrial conference[held/continued to] [set for/re-set for] on set for at					
(7)	□ Tria	Trial[set for/re-set for] onat					
(8)	☐ [Bei	[Bench/Jury trial] [Hearing] held/continued to at					
(9)		his case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to] FRCP4(m)					
(10)							
(11) For further detail see order attached to the original minute order.]							
	No notices required, advised in open court.				3	Pgrument Number	
	No notices required.				number of notices		
/	Notices mailed by judge's staff.				JUL 0 7 2004		
Notified counsel by telephone. Docketing to mail notices.				date docketed	. ~		
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IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

NAMMI DEUDENC	UULKE 2004		
DAWN L. BEHRENS,) Case No. 03 C 7249 JUL 07 2004		
Plaintiff,) Judge Joan B. Gottschall		
V.) Magistrate Judge		
SILLIKER LABORATORIES, INC.,) Martin C. Ashman		
Defendant	Š		

REPORT AND RECOMMENDATION

This case originally came before the Court on Defendant's motion to compel production of documents. The motion was granted, but Plaintiff failed to respond. Plaintiff has also failed to appear for status hearings. For the following reasons, the Court finds that Plaintiff's case should be dismissed for want of prosecution.

Plaintiff Dawn L. Behrens brought suit against Defendant Silliker Laboratories, Inc., alleging discrimination on the basis of disability in violation of the ADA and violation of ERISA. On June 8, 2004, Defendant filed a motion to compel, seeking an order compelling Plaintiff to respond to discovery requests that were over three months past due. The Court granted the motion on June 15, 2004, and ordered Plaintiff to respond within fourteen days. The Court informed Plaintiff in its order that a failure to respond may result in the dismissal of the lawsuit. Plaintiff failed to respond. On June 30, 2004, the Court held a status hearing and ascertained that Plaintiff had not responded to the outstanding discovery requests as ordered. Plaintiff has not appeared in court to oppose the motion to compel nor to attend court at status hearings.

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Under Federal Rule of Civil Procedure 41, the court may dismiss an action for failure of

the plaintiff to prosecute or to comply with the rules or the court's orders. Dismissal of a case "is

one of the tools available to district courts 'to achieve the orderly and expeditious disposition of

cases." Williams v. Chic. Bd. of Educ., 155 F.3d 853, 857 (7th Cir. 1998) (quoting Link v.

Wabash R.R. Co., 370 U.S. 626, 630 (1962)). However, because dismissal is such a harsh

sanction, it "should be used 'only in extreme situations, when there is a clear record of delay or

contumacious conduct, or when other less drastic sanctions have proven unavailing." Id.

(quoting Dunphy v. McKee, 134 F.3d 1297, 1299 (7th Cir. 1998) (citations omitted)).

Plaintiff's actions cause us to reach the conclusion that this case should be dismissed for

failure to prosecute. Plaintiff has failed to answer discovery as required, even after this Court

entered an order that she must respond to the discovery. Plaintiff was warned that a failure to

respond would result in the dismissal of the case. Plaintiff has delayed and directly disregarded

this Court's order and has failed to attend status hearings. She has, by these omissions, indicated

her disinterest in her case.

Therefore, for the reasons discussed above, we recommend that Plaintiff's case be

dismissed with prejudice for want of prosecution. Additionally, we recommend that Defendant's

counterclaim be dismissed with prejudice.

MARTIN C. ASHMAN

United States Magistrate Judge

Dated: July 6, 2004.

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Written objections to any finding of fact, conclusion of law, or the recommendation for disposition of this matter must be filed with the Honorable Joan B. Gottschall within ten (10) days after service of this Report and Recommendation. *See* Fed. R. Civ. P. 72(b). Failure to object will constitute a waiver of objections on appeal.

Copies have been mailed to:

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